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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,426	08/29/2006	Keith David Handy	SWIN 3523	4699

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EXAMINER	
PERRIN, JOSEPH L	

ART UNIT	PAPER NUMBER
1792	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/598,426	HANDY, KEITH DAVID	
	Examiner	Art Unit	
	Joseph L. Perrin	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 August 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, in claim 28 the claim limitations "clutch means such that the carriage member will not move along the body if a resistive force above a predetermined level is encountered" does not particularly point out or distinctly claim the subject matter which applicant regards as the invention. If a resistive force above a predetermined level is encountered, does this mean the carriage will not move because a so-called resistive force, such as a braking system or stopping of the driving motor, will force the carriage to prevent the carriage from further movement? What does Applicant mean by a resistive force and a clutch means? What type of “predetermined level” is required, is it one of a measure force or lack thereof? Does this mean the carriage may be manually held still if a person/user used a resistive force to hold it?

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 22-27, 30-33, and 38-42 are rejected under 35 U.S.C. 102(b) as being anticipated Bruhin (previously cited).

Bruhin teaches a device/assembly and method for cleaning a surface of a moving flat element, especially of an escalator or a conveyor. The device/assembly having an elongate reciprocal movement providing means including an elongate body (14) and a carriage member (20) movable in a reciprocal manner along the body (14), a "cleaning member" (jet head 5 and/or nozzles associated therewith supplied with pressurized air and a cleaning fluid, directed onto a surface 10 of escalator or conveyor 1, for loosening dirt, which is removed via a suction device 6 (vacuum system)) mounted on the carriage, the assembly also including first and second "engagement members" (slidably adjustable brackets 15) fully capable of performing the recited intended use of being "engageable on an item to be cleaned" towards both sides of the item, the engagement members being adjustably mounted on the body and fully capable of the intended use of being adjusted to different widths of an item to be cleaned, the carriage member (20) being movable along a required proportion of the body between the first and second engagement members (see entire document of Bruhin, particularly the abstract, Figure 2 and relative associated text as evidenced in the machine translation).

As illustrated in Figure 2, the jet head 5 is attached to a carriage 20 (carriage) which is fixed along a guide member 19 and guide rails 18 (reciprocal movement providing means), so it can move longitudinally along a horizontal plane of surface 10. At the ends of the guide member 19, the adjustable

brackets 15 (first and second engagement members) are attached to side walls by suction cups 16 (locking means) which also read on height adjustment means. Inherently, the width of the placement/extension of brackets 15 determines the length at which the carriage body may travel.

Bruhin's teaching of an escalator or conveyor reads on Applicant's claims for a belt/chain. Moreover the device of Bruhin can be manually adjustable by the adjustment/placement of suction cups 16 and brackets 15 (manually adjustable). Bruhin teaches the use of sensors 36, 38 in combination with a control 35 (one or more sensors).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruhin.

Bruhin teaches the claimed invention except fails to specify the speed of the carriage's horizontal movement. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to optimize the speed of the reciprocal movement of the carriage to achieve the most optimal cleaning; lightly dirtied surfaces may be cleaned faster, however very soiled surfaces may require the surface is cleaned at a slower rate and thus the carriage will move at a slower rate horizontally across the surface 10 to be washed. It has been held that discovering an optimum value of a result effective variable involves only

routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Moreover, it is envisaged that the controller of Bruhin is used to control the speed at which the carriage traverses across guide member 19 and guide rails 18 to ensure proper cleaning and no missed spots.

7. Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruhin as applied to claims above, and further in view of Meeker et al. herein referred to as "Meeker" (Patent No. 3,12,235).

Bruhin teaches the claimed invention except is silent regarding the use of a removable safety cover. However, the use of safety covers in conveyor type cleaning machines employing the use of pressurized liquids is known in the art. For example, Meeker teaches a conveyor structure for cleaning dishes which has a safety cover 207. The safety cover 207 of Meeker must be in place before the conveyor can run, and further, the conveyor control circuit is under the control of the platform operated switch 170 (col. 7, lines 65-68). It is envisaged that the safety cover 207 of Meeker is attached by slots, since this is a known way to attach a cover, such as a bolt/screw inserted into a slot of the machine or a snap fitment by way of a hook inserted into a slot. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a safety cover feature in the invention of Bruhin, as taught by Meeker, since it a known means in the conveyor art for providing safety. It is beneficial to have a safety cover so neither the operator nor any passerby's are injured, and also to reduce spray off of liquid during cleaning.

Response to Arguments

8. Applicant's arguments filed 13 August 2009 have been fully considered but they are not persuasive.

9. Turning to the rejection(s) of the claims under 35 U.S.C. § 102, it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims *(Sjolund v. Musland,* 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Anticipation under 35 U.S.C. § 102 is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices. Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim *(In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not

require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.,* 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am*., 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves,* 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice,* 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

10. At the outset, the examiner points out that the applicant's claims are replete with generic language and language based on the intended use of the recited structure, and as such may be subject to various different interpretations that may "read on" the invention as claimed (see above regarding the law of anticipation). The examiner notes that the applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant is reminded that novelty does not equate to patentability, and that the path of patentability may be found through a proper showing of novelty and non-obviousness.

11. Regarding the 112 rejection, the applicant has presented minor amendments to claim 28 without arguments as to how the amendment overcomes the rejection. Accordingly, the rejection is maintained.

12. Regarding the 102 rejection over Bruhin, the applicant's argument in light of the instant amendment has rendered the applied rejection moot. However, the amendment has necessitated a new ground of rejection over Bruhin as indicated above.

13. Regarding the Information Disclosure Statement, the Examiner acknowledges that a European Search Report was indeed filed with the instant application citing the references in the Information Disclosure Statement of 16 November 2009 (filed separately from the Search Report). The foreign references have now been considered with respect to their relevancy as an "X", "Y", or "A" indication on the search report, which satisfies the statement of relevancy requirement. However, in the future it is suggested that the Applicant cite the European Search Report and references simultaneously to avoid any confusion and assist in compact prosecution.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 8:00-4:30.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/
Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1792

JLP